

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

	: CIVIL ACTION NO. 1:12-cv-12208
KATHLEEN GUZMAN and MIGUEL GUZMAN, wife and husband	:
	:
Plaintiff(s),	:
	:
v.	:
	:
	:
UNIFIRST CORPORATION, a/d/b/a UNICLEAN CLEANROOM SERVICES, PREMIER ORTHOPAEDIC: AND SPORTS MEDICINE ASSOCIATES: OF SOUTHERN NEW JERSEY, LLC,	:
d/b/a PREMIER ORTHOPAEDICS ASSOCIATES, PREMIER ORTHOPAEDIC ASSOCIATES	:
SURGICAL CENTER, LLC, INSPIRA MEDICAL CENTER VINELAND f/k/a SOUTH JERSEY HEALTHCARE	:
REGIONAL MEDICAL CENTER,	:
KIMBERLY SMITH-MARTIN, M.D. and: DOES 1-25, INCLUSIVE.	:
	:
Defendants.	:

**AMENDED CORRECTED SHORT FORM COMPLAINT
AGAINST UNAFFILIATED DEFENDANTS**

Plaintiff(s), KATHLEEN GUZMAN and MIGUEL GUZMAN, wife and husband, complaining against the Defendants, allege(s) as follows:

FIRST COUNT

1. Pursuant to MDL Order No. 7, entered in In Re: New England Compounding Pharmacy, Inc. Products liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submit this Short Form Complaint and Jury Demand against the

Defendants, and adopt and incorporate by reference the allegations in the Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.

2. Plaintiffs are residents of the State of New Jersey.
3. Plaintiff, KATHLEEN GUZMAN, brings this action:

On behalf of herself:

- As the representative of _____, who is a living person.
- As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of _____ (hereinafter "Decedent"), who died on _____.

4. Additionally, MIGUEL GUZMAN, is the:

Spouse

- Child/Children
- Other (Set forth) _____

of KATHLEEN GUZMAN, is a resident of the State of New Jersey, and is hereby named as an additional plaintiff, and claims damages.

5. Plaintiff asserts that the Plaintiff was administered New England Compounding Pharmacy, Inc. ("NECC") drug methylprednisolone acetate (hereinafter referred to as "NECC drug"), causing injuries and damages.

6. The aforesaid administration of the NECC drug occurred on: August 16, 2012, by Kimberly Smith-Martin, M.D., of Premier Orthopaedics and Sports Medicine Associates of Southern New Jersey, LLC, d/b/a Premier Orthopaedic Associates located in Vineland, New Jersey, and the injection was administered at Inspira Medical Center Vineland f/k/a South Jersey

Healthcare Regional Medical Center located in Vineland, New Jersey.

7. Dr. Kimberly Smith-Martin and healthcare facility Premier Orthopaedics and Sports Medicine Associates of Southern New Jersey, LLC, d/b/a Premier Orthopaedic Associates and Inspira Medical Center Vineland f/k/a South Jersey Healthcare Regional Medical Center are hereinafter collectively referred to as "Clinic Related Defendants."

8. Plaintiff(s) adopt(s) and incorporate(s) by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

- COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)
- COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)
- COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)
 - Plaintiff(s) allege violation of the following consumer protection statute(s): Mass. Gen. Laws Ann. Ch. 93A et seq.; and N.J.S.A. 56:8-1 *et seq.*
- COUNT VI: VIOLATION OF M.G.L. C. 93A (Against UniFirst)
- COUNT VII: BATTERY (Against Clinic Related Defendants)
- COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)
- COUNT IX: TENNESSEE PRODUCT LIABILITY CLAIMS (Against Tennessee Clinic Related Defendants)
- COUNT X: AGENCY (Against Clinic Related Defendants)
- COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendants)

- COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)
- COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)
- COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)

9. Plaintiff(s) have sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under Mass. Gen. Laws Ann. Ch. 93A and NJ. See attached Exhibit A. Plaintiff(s) do not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired:

Counts 1,3,4,7,8,10,11,13 and 14

10. Plaintiff KATHLEEN GUZMAN claims to have suffered the following injuries as a result of the administration of NECC's drug: fungal meningitis, Blisters caused by medication, memory loss, delirium and hallucinations caused by medication, headache, dizziness, photophobia, nausea, vertigo, blurred vision, epidural blood patch from spinal tap, pain and suffering, anxiety.

11. Plaintiff MIGUEL GUZMAN claims to have suffered the following damages as a result of the administration of NECC's drug loss of care comfort and companionship of his spouse, loss of work in caring for his spouse.

WHEREFORE, Plaintiff(s) demand(s) Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiff(s) reserve the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master

Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20) and to add or amend allegations against Defendants named herein based, in part, on further discovery.

Plaintiffs reallege and incorporate by reference all causes of action set forth in the initial complaint in this matter as filed November 19, 2012.

WHEREFORE, Plaintiff(s) demand(s) Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, cost of suit, and such further relief as the Court deems equitable and just, and further, pursuant to Mass. Gen. Laws Ann. Ch. 93A et seq, Plaintiff(s) pray(s) for damages in an amount not to exceed \$5,000,000.00.

SECOND COUNT

12. Plaintiff(s) re-allege(s) and incorporate(s) by reference each of the foregoing paragraphs as if set forth at length herein.

13. Plaintiff(s) assert(s) the following additional Causes of Action against Defendant(s) UniFirst Corporation.

14. KATHLEEN GUZMAN claims to have suffered the following injuries as a result of the administration of the NECC drug: methylprednisolone acetate.

15. KATHLEEN GUZMAN claims to have suffered the following damages as a result of the administration of the NECC drug: methylprednisolone acetate.

16. The additional designated plaintiff(s) has suffered/have suffered/will continue to suffer the following: loss of consortium, care, companionship and support of spouse.

WHEREFORE, Plaintiff(s) demand(s) Judgment against the Defendants awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

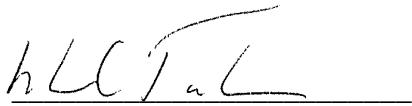
JURY DEMAND

Plaintiff(s) hereby demand(s) a trial by jury.

**Respectfully Submitted,
KATHLEEN GUZMAN and MIGUEL GUZMAN
PLAINTIFF(S),**

By (Their) Attorneys,

ANDREWS & THORNTON


**John C. Thornton, Esq. PHV
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Date: December 20, 2013

Certificate of Service

I, John C. Thornton, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 20, 2013.

/s/ John C. Thornton
John C. Thornton

Case #: 13-md-2419

Certificate of Service

I, John C. Thornton, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on December 23, 2013.

/s/ John C. Thornton
John C. Thornton